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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,056	11/26/2001	Robert F. Cruickshank III	FSP0163	9528
88095	7590	06/26/2009	EXAMINER	
ARRIS 3871 Lakefield Drive Suwanee, GA 30024			PATEL, DHAIRYA A	
			ART UNIT	PAPER NUMBER
			2451	
			NOTIFICATION DATE	DELIVERY MODE
			06/26/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: ROBERT CRUICKSHANK, DANIEL RICE, JASON
SCHNITZER, DENNIS PICKER, RAPHAEL LEEMAN,
RAMESH VASWANI and ROBERT GAUVIN

Application No. 09/995,056
Technology Center 2400

Mailed: June 25, 2009

Before DALE M. SHAW *Chief Appeals Administrator*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 15, 2008. A review of the application revealed that it is not ready for docketing as an appeal.

Application No. 09/995,056

Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 1-3, 5-7, 9-20, 22, 23, 33-35, 37-39, 41-52, 54 and 55. The rejected claims that have not been appealed and/or argued for appeal are claims 2-3, 5-7, 9-11, 15-20, 22, 34-35, 37-39, 41-43, 47-52 and 54.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 6, Sept 2007).

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

Application No. 09/995,056

1) either enter a paper or have appellants enter a paper canceling claims 2-3, 5-7, 9-11, 15-20, 22, 34-35, 37-39, 41-43, 47-52 and 54, and to amend claims 12 and 23 such that they are independent claims and include all limitations from any cancelled claim;

2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims; and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

dms/tsj

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